

**BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2015-362-E**

<b>In RE:</b>	)	
	)	<b>JOINT NOTICE OF</b>
	)	<b>INTERCONNECTION SETTLEMENT</b>
	)	<b>AND PETITION FOR LIMITED</b>
<b>South Carolina Generator</b>	)	<b>WAIVER OF DUKE ENERGY</b>
<b>Interconnection Procedures</b>	)	<b>CAROLINAS, LLC; DUKE ENERGY</b>
	)	<b>PROGRESS, LLC; AND SETTLING</b>
	)	<b>DEVELOPERS</b>

Pursuant to 10 S.C. Code Reg. 103-825 (2012), of the Rules of Practice and Procedures of the Public Service Commission of South Carolina (“Commission”), Duke Energy Carolinas, LLC (“DEC”) and Duke Energy Progress, LLC (“DEP”, and together with DEC, “Duke” or the “Companies”); and Birdseye Renewable Energy, LLC (“Birdseye”); Cypress Creek Renewables, LLC (“CCR”); Pine Gate Renewables, LLC (“Pine Gate”); Southern Current LLC (“Southern Current”); National Renewable Energy Corporation (“NARENCO”); DEPCOM Power, Inc. (“DEPCOM”); and Ecoplexus Inc (“Ecoplexus”) (Birdseye, CCR, Pine Gate, Southern Current, NARENCO, DEPCOM, and Ecoplexus collectively, the “Settling Developers” and together with Duke, the “Joint Petitioners”),<sup>1</sup> by and through counsel, provide notice of a settlement and, further, petition the Commission for approval of three limited waivers from the South Carolina Generator Interconnection Procedures (“SC GIP”) to implement such settlement (“Joint Notice and

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<sup>1</sup> Carolina Solar Energy LLC, Strata Solar, LLC, and Strata Solar Development, LLC are also parties to the settlement. However, those companies do not have any solar projects in South Carolina that would be subject to the settlement, and thus do not join in this Joint Notice and Petition.

Petition”).<sup>2</sup> The Joint Petitioners respectfully request expedited approval of such waivers on or before October 15, 2020.

Additionally, due to the commercial sensitivity and proprietary nature of certain portions of the Settlement Agreement, the Joint Petitioners respectfully request that the Commission find that pursuant to S.C. Code Ann. Regs. 103-804(S)(2) and S.C. Code Ann. § 30-4-40(a)(1), certain attachments to the Settlement Agreement are exempt from disclosure under the Freedom of Information Act, S.C. Code Ann. §§ 30-4-10 *et seq.* The information contained in the attachments for which the Joint Petitioners seek protection constitutes trade secret, and confidential, proprietary and commercially-sensitive information about the Settling Developers’ interconnection requests and planned solar generating facilities. Accordingly, the Joint Petitioners respectfully request to file the confidential version of the Settlement Agreement under seal and that it is maintained as confidential pursuant to Order No. 2005-226.

### **I. Introduction and Summary**

1. Over the past six months, the Companies and the Settling Developers, comprising the majority of the major utility-scale solar developers in South Carolina and North Carolina, have devoted an immense amount of time and resources to crafting a comprehensive settlement agreement (the “Settlement Agreement”) that resolves

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<sup>2</sup> The Settling Developers are developers of solar photovoltaic generating facilities in South Carolina. The Settling Developers’ Interconnection Requests submitted pursuant to the South Carolina Generator Interconnection Procedures are subject to the jurisdiction of the Commission. Of the Settling Developers, only Southern Current is a party in this docket. Should another Settling Developer later petition to intervene in this docket for purposes of seeking the Commission’s assistance in enforcing the provisions of the Settlement Agreement, neither the Companies nor Southern Current will object to such intervention. If the Commission deems it necessary for all Settling Parties to become parties to this docket, then the Settling Parties (with the exception of Southern Current, which is already a party) request the Commission deem this Joint Notice and Petition as a request for late intervention for the limited purposes of the waivers requested herein.

approximately fifty outstanding disputes; avoids potential additional complaints; provides for the interconnection of a significant subset of the Settling Developers' Interconnection Requests<sup>3</sup> within a defined time frame, despite current transmission constraints; and provides for an efficient and equitable transition to a revised study process for evaluating interconnection requests in the Carolinas. The settlement agreement provides these benefits at no incremental cost to non-settling parties.

2. As explained in greater detail herein, one of the key benefits of this comprehensive agreement is the resolution of long-standing disputes regarding the Companies' invoicing of interconnection cost estimates to Interconnection Customers substantially in excess of the costs estimated in their Interconnection Agreements. (*See* Settlement Agreement Section 1.) Instead of litigating potentially 50+ disputes, which would need to be considered by this Commission on a project-by-project basis, this agreement resolves those disputes and obviates the need for protracted litigation.

3. The Interconnection Settlement Agreement, attached hereto as Exhibit A, also provides a clear path for resolving certain pending distribution-connected solar Interconnection Requests by facilitating a certain number of additional interconnections according to defined timelines and with the benefit of prospective capping of interconnection costs. (*See* Settlement Agreement Sections 2-6.)

4. By providing a path for resolving a substantial portion of the Interconnection Requests in the Companies' distribution interconnection queues, and thereby reducing the volume of older pending distribution Interconnection Requests, the Interconnection Settlement Agreement will also help clear the way for reforms to the

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<sup>3</sup> Unless otherwise noted, capitalized terms herein are defined in the SC GIP.

interconnection process that the Companies plan to propose to the Commission for approval later this year.

5. Neither the Settlement Agreement nor the requested waivers will result in any additional costs being imposed on the Companies' retail or wholesale customers. Nor will they have any negative impact on other Interconnection Customers not a party to the Settlement.

## **II. Background**

6. Beginning in 2014-2015, South Carolina and North Carolina experienced a significant increase in distribution-connected, utility-scale solar development. The 2014 enactment of Act 236 in particular encouraged the development of a large number of proposed solar projects seeking interconnection to the Companies' distribution systems in South Carolina.<sup>4</sup> Duke has submitted many reports to the Commission<sup>5</sup> detailing the Companies' nation-leading interconnection success, as well as the inherent technical, logistical and other challenges of processing and interconnecting substantial amounts utility-scale solar generating facilities to the Companies' distribution system under the serial interconnection process mandated by the SC GIP.<sup>6</sup> As the Commission knows, members of the third-party solar development community have often disagreed with and

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<sup>4</sup> Because Act 236 limited the size of utility-scale solar development under the distributed energy resource plan to 10 MW and under, and given that these smaller solar facilities interconnect to the distribution system (instead of the transmission system), the number of distribution-connected Interconnection Requests in South Carolina grew tremendously in the 2014-2015 time frame.

<sup>5</sup> See DEC's and DEP's quarterly Interconnection Queue Reports filed in Docket No. 2018-202-E (most recently filed on July 31, 2020). See also, ND 2018-9-E, Allowable Ex Parte Briefing by Duke Energy Carolinas, LLC and Duke Energy Progress, LLC Regarding Developments in Solar Power Production in South Carolina (March 29, 2018).

<sup>6</sup> The North Carolina Interconnection Procedures ("NCIP") similarly mandate a serial interconnection process for Interconnection Requests in North Carolina.

criticized various aspects of the Companies' interconnection processes and in some cases have initiated formal disputes concerning the same.

7. To date, the Companies have processed approximately 4,230 MW of distribution-connected, utility-scale solar Interconnection Requests, of which approximately 2,002 MW resulted in successful project interconnections, with the balance being withdrawn at various points in the interconnection process.

8. Currently, there are only approximately 1,089 MW of distribution-connected, utility-scale solar Interconnection Requests pending in the interconnection queue.

9. Of those remaining distribution-level Interconnection Requests, approximately 731 MW were determined by the Companies to be "transmission-constrained."<sup>7</sup> In general terms, this means that those projects are requesting to interconnect in areas of the Companies' transmission grid that are already saturated with a significant amount of interconnected solar facilities. Absent the measures agreed to under this Settlement Agreement, such projects generally cannot interconnect without substantial and costly improvements to the grid, and probably do not have a financially viable path to interconnection. At a minimum, such projects will be forced to sit idly in the interconnection queue for years until earlier-queued Interconnection Customers commit to fund substantial transmission Upgrades and the constraints on the transmission system are resolved (as will be discussed in more detail herein).

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<sup>7</sup> In procedural terms (and as is explained in more detail in Para. 18-25), "transmission-constrained" refers to the circumstance in which a transmission-level interdependency has been identified and the required Network Upgrades have been assigned to an earlier-queued Interconnection Customer.

10. An additional factor underlying the Settlement Agreement is the ongoing effort of the Companies and the Joint Petitioners to develop a more efficient process to study Interconnection Requests in the Carolinas. This revised study process, or “Queue Reform,” would allow groups of Interconnection Requests to be studied together in periodic “clusters” to identify impacts to the transmission grid, rather than separately under the current serial study process.<sup>8</sup>

11. One of the biggest challenges in reforming the interconnection process is processing older distribution interconnection requests in a fair and equitable manner that respects the position of projects that have been pending in the interconnection queue for long periods of time due to the requirements of the currently applicable serial study process. The Settlement Agreement mitigates these challenges and supports the transition to Queue Reform through the Companies’ agreement to: (1) process and interconnect certain distribution-connected, utility-scale Interconnection Requests that are not transmission-constrained under the existing serial study process, prior to the implementation of Queue Reform (if it is approved by the Commission); and (2) provide a pathway to interconnection for limited number of transmission-constrained, distribution-connected solar projects.

12. Importantly, while the Companies have executed this Settlement Agreement with the Settling Developers, which own or are authorized to represent the majority of applicable distribution-level utility-scale solar Interconnection Customers in South and North Carolina, the Settlement Agreement remains open for all similarly-situated Interconnection Customers to join. That is, any eligible Interconnection Customer

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<sup>8</sup> Later this year, the Companies will present to the Commission proposed revisions to the SC GIP to effectuate this revised study process. Similar regulatory approvals will be required by the North Carolina Utilities Commission and the Federal Energy Regulatory Commission.

is permitted to join the Settlement Agreement and avail itself of the benefits offered therein. The Companies have made good faith efforts to notify all eligible Interconnection Customers and offer the opportunity to join the Settlement Agreement (pending Commission approval) and will continue those efforts subsequent to this filing.

13. Finally, as further described below, the Settlement Agreement does not impose any incremental costs on non-Interconnection Customers. Moreover, any Interconnection Customer that chooses not to participate in the Settlement Agreement will continue to enjoy all of the rights provided to it under the SC GIP and will not be disadvantaged by the implementation of the Settlement Agreement.

14. The Joint Petitioners are filing the Settlement Agreement with the Commission for informational purposes and are not requesting Commission approval of the Settlement Agreement itself. However, the Joint Petitioners are requesting limited waivers of three provisions of the SC GIP in order to implement the Settlement Agreement.

15. Section III of this Joint Notice and Petition describes the specific waivers being sought by the Joint Petitioners, while Section IV provides additional details concerning the Settlement Agreement for informational purposes.

### **III. Waiver Requests**

#### ***a. Limited Waiver of Interdependency Construct***

16. Section 5(a) of the Settlement Agreement reflects Duke's and the Settling Developers' agreed-upon arrangement to allow for the interconnection of a limited number of transmission-constrained, distribution-connected projects. Permitting interconnection of

these projects in this way departs somewhat from the Interdependency provisions of the SC GIP<sup>9</sup>, and therefore requires a waiver from the Commission.

17. Under the current serial study approach required by the SC GIP, projects are studied and assigned Upgrades (where necessary) based on the order in which they enter the interconnection queue, with earlier-queued projects studied and, where necessary, assigned Upgrades, prior to later-queued projects. If an earlier-queued project is assigned an Upgrade on which a later-queued project would be dependent, such later-queued project is deemed “Interdependent” to such earlier-queued project.<sup>10</sup> The later-queued Interdependent Project is not permitted to move forward to interconnect until the earlier-queued project has irrevocably committed to pay for its assigned Upgrades, and, as a result, there is certainty that such Upgrades will be constructed if they are needed for later-queued projects.<sup>11</sup>

18. Interdependency can arise on a distribution level or on a transmission level (or both). That is, any given Interconnection Customer might be impacted by whether an

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<sup>9</sup> The Interdependency provisions of the SC GIP are specified in Attachment A to the Memorandum of Understanding between Duke Energy Carolinas, LLC; Duke Energy Progress, LLC; the South Carolina Office of Regulatory Staff and South Carolina Solar Business Alliance, as approved by the Commission in Order No. 2016-191 in Docket No. 2015-362-E (“Interdependency MOU”).

<sup>10</sup> The Interdependency MOU defines an “Interdependent Customer” (or Interdependent Project) as “an Interconnection Customer (or Project) whose Upgrade or Interconnection Facilities requirements are impacted by another Generating Facility, as determined by the Utility.”

<sup>11</sup> *See generally*, Interdependency MOU Paragraph 5(a). A simple example of Interdependency is where an earlier-queued project is determined to require an Upgrade of a distribution circuit. This project is known as Project A. A later-queued project on the same circuit, known as Project B, will not proceed to interconnect until it is determined whether Project A has elected whether to proceed to interconnect and therefore fund the Upgrade of the distribution circuit or instead, has elected to withdraw. If Project A elects to proceed and has irrevocably paid for the Upgrade to the distribution circuit, Project B may proceed and interconnect relying on such distribution circuit Upgrade. But if Project A ultimately elects to withdraw and not pay for the distribution circuit Upgrade, Project B will be assigned the required Upgrade and must either pay for such Upgrade or withdraw.



earlier-queued Interconnection Customer elects to fund and construct a distribution or transmission Upgrade (or both).

19. As has been explained by the Companies previously, the large number of utility-scale solar projects already interconnected in South and North Carolina has consumed substantial portions of the available transmission and distribution capacity in certain areas of the states.<sup>12</sup> As a result, substantial Upgrades are needed to accommodate further generator interconnections in some areas, including substantial transmission Upgrades that can cost tens or, in some cases, hundreds of millions of dollars.<sup>13</sup>

20. Currently, more than 700 MW of distribution-connected Interconnection Requests are on-hold due to Interdependency determinations made by the Companies at the transmission-level—that is, such Interconnection Requests have been identified as being dependent on certain transmission Upgrades that have been assigned to, but not irrevocably paid for, by an earlier-queued project.

21. As it relates to this waiver request, Section 5(a) of the Settlement Agreement would allow a limited number of such transmission-constrained distribution projects to interconnect prior to the construction of necessary transmission Upgrades. In other words, under the Settlement Agreement, such projects are being permitted to bypass the Interdependency construct and move forward to interconnect (pending Commission approval of this waiver) even though the Upgrades upon which the projects are interdependent have not been irrevocably paid for (or constructed).

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<sup>12</sup> See fn. 5 *supra*.

<sup>13</sup> Interconnection Customers that go through the process set forth in the SC GIP pay the costs of those Upgrades themselves; they are not paid for by the Companies or ratepayers.

22. Ordinarily, an Interdependent Customer cannot interconnect prior to the completion of the Upgrades upon which it is interdependent; however, the Companies have identified a set of operating protocols that can be applied to a limited number of distribution-connected solar projects that will ensure the continued reliability and safety of the transmission system without construction of the transmission Upgrades in question.<sup>14</sup>

23. Under such operating protocols, the Companies will have the right to curtail the output of such distribution projects as needed in order to ensure compliance with all applicable NERC standards. Specifically, the curtailment right under the Settlement Agreement is intended to ensure the Companies' ability to comply with NERC Reliability Standard TOP-001. As part of the Settlement Agreement, the Companies agreed to cap the amount of uncompensated curtailment that is implemented to ensure compliance with NERC Reliability Standard TOP-001. The Companies are confident that the amount of uncompensated curtailment allowable under the Settlement Agreement will be sufficient to maintain compliance with this standard.

24. Of their existing portfolios of distribution-connection projects, each Settling Developer may only select a limited number of projects to be interconnected under these protocols. Limiting the total number of projects that can be interconnected in this way will further ensure that the Settlement Agreement will not impact the safety and reliability of the Companies' systems.

25. In summary, the Companies and Settling Developers have worked collaboratively to identify a creative solution to facilitate more interconnection of certain

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<sup>14</sup> It has not yet been determined if and when certain of the major transmission Upgrades will be constructed. If and when any such Upgrades are constructed, the operating protocols would no longer apply to affected projects.

pending distribution Interconnection Requests in areas of significant transmission constraints, while limiting such interconnection and putting in place protocols to ensure the safe and reliable operation of the transmission system. This solution, however, partially bypasses the Interdependency construct and therefore requires a limited waiver of the SC GIP, which the Joint Petitioners hereby request from the Commission.

26. Once again, any similarly situated Interconnection Customer that is not already a party to the Settlement Agreement is free join the Settlement Agreement and avail itself of the same rights that have been made available to the Settling Developers. If an eligible Interconnection Customer elects not to participate, then such Interconnection Customer shall continue to be studied in accordance with the current SC GIP and will not be impacted by the limited waiver requested herein.

***b. Limited Waiver of Queue Position***

27. In a narrow set of circumstances, the Settlement Agreement would allow Interconnection Customers to be studied and potentially interconnected out of Queue Position priority order (*see* Section 3(c)(i) of the Settlement Agreement).

28. Sections 1.3.2 and 1.6 of the SC GIP set forth how an Interconnection Request's Queue Position is determined and require the Utility to process Interconnection Requests according to their respective Queue Positions.<sup>15</sup>

29. The Settlement Agreement would allow certain projects owned or represented by Settling Developers to move ahead of other prior-queued projects owned by Settling Developers on the same substation, if this does not adversely affect any other

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<sup>15</sup> The SC GIP's definitions of Queue Position and Queue Number, as set forth in the SC GIP's Glossary of Terms, further explicate this concept.

Interconnection Customer that is not party to the Settlement Agreement. This limited exception to the Queue Position priority order is designed solely to allow the Settling Developers more flexibility to identify and facilitate the interconnection of the distributed generation projects most likely to be technically and economically viable on a given substation or distribution circuit. This flexibility is limited only to a small subset of projects that are subject to this Settlement Agreement.

30. The Joint Petitioners therefore request a limited waiver of Sections 1.3.2 and 1.6 of the SC GIP in the narrow circumstances identified in Section 3(c)(i), which again prohibits any outcome that would adversely impact any Interconnection Customer that is not a party to the Settlement Agreement.

**c. Limited Waiver to Material Modification Indicia: Downsizing Greater than 10%**

31. Finally, the Settlement Agreement allows for certain Interconnection Customers to reduce the size of their proposed Generating Facility by more than 10% (*see* Section 2(b)(ii)(2) of the Settlement Agreement). Section 1.4 of the SC GIP, together with the definition of Material Modification in the SC GIP's Glossary of Terms, specify that a reduction in AC output by more than 10% is an indicia of a Material Modification, which would require such Interconnection Request to be withdrawn.<sup>16</sup> However, in order to most efficiently administer the Settlement Agreement, certain Interconnection Customers will be permitted to reduce the size of their proposed Generating Facilities by more than 10% if the Commission grants this particular waiver.

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<sup>16</sup> For the avoidance of doubt, the Settlement Agreement does not provide for, and the Joint Petitioners are not requesting, a waiver of Section 1.4 as it relates to Material Modification resulting from an *increase* in the Maximum Generating Capacity of the proposed Generating Facility.

#### IV. **Additional Summary of the Settlement Agreement**

32. As discussed above, the Joint Petitioners are only requesting Commission approval of the three limited waivers to the SC GIP discussed in Section III of this Joint Notice and Petition. Nevertheless, in order to provide the Commission greater context for the waiver requests and the benefits of this comprehensive Settlement Agreement, the Joint Petitioners provide below a further summary of key provisions of the Settlement Agreement.

##### *a. **Overview of Section 1 of the Settlement Agreement***

33. Section 1 of the Settlement Agreement resolves disputes and complaints related to certain final accounting reports (“FARs”) delivered to certain Interconnection Customers pursuant to their applicable Interconnection Agreements (“IA”).

34. As background, each Utility is required to provide, and each Interconnection Customer is required to pay in advance, the estimated cost for the Interconnection Facilities and Upgrades required to connect each project to the Utility’s system while maintaining the safety and reliability of the system. However, if the actual cost of the Interconnection Facilities and Upgrades exceeds the estimated costs, the Utility may invoice the Interconnection Customer for those costs, through a FAR, which the Interconnection Customer is responsible for paying under the terms of the IA.<sup>17</sup> Therefore, if a FAR is delivered, the Interconnection Customer receives a refund if the actual costs

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<sup>17</sup> Similarly, an Interconnection Customer is entitled to a refund if actual costs are less than estimated costs.

are below the estimated cost and is required to pay the incremental cost when the actual cost exceeds the estimated cost.

35. In late 2018 and early 2019, as the Companies delivered more FARs, it became clear that there was a consistent pattern of actual costs far exceeding estimated costs for distribution-connected, utility-scale solar projects.

36. The reasons for these cost exceedances were manifold and, in some cases, involved circumstances unique to a particular construction project (such as unforeseen site conditions). But the Companies also identified a consistent set of factors contributing to many of the exceedances. In response, the Companies implemented an updated cost estimation methodology in July 2019 that the Companies' recent experience shows produces more accurate cost estimates. In addition, the Companies began assessing a fixed overhead charge of \$38,000 per Interconnection Customer for the interconnection study process ("DET Administrative Overhead").

37. However, for all of those Interconnection Customers that received an IA prior to July 2019, the Companies have continued to observe substantial cost exceedances relative to the estimated cost presented in the Interconnection Customer's IA. Although cost exceedances did not occur in every case, the Companies acknowledge that the scale of the cost exceedances for some older projects is substantial, ranging as high as 300%.

38. A number of Interconnection Customers that have received FARs containing cost exceedances have submitted Notices of Dispute ("NODs") pursuant to the SC GIP. In many cases, the NODs have challenged not only construction cost exceedances, but also increases in study costs, and the imposition of DET Administrative Overhead and/or direct-charged commissioning costs assigned to such project. The Joint Petitioners

acknowledge that if the pending disputes concerning FARs were all to proceed to litigation before the Commission, such proceedings would be expensive and time-consuming and would be a tremendous burden on the Commission's limited resources.

39. Therefore, the Joint Petitioners have agreed to a tiered cost capping structure pursuant to which Interconnection Customers are required to pay the cost exceedance up to a certain specified percentage, while the Companies accept cost responsibility for the remaining construction cost amounts over the applicable percentage. All such Interconnection Customers have also agreed to pay all DET Administrative Overhead and direct-charged commissioning and study costs, along with all applicable taxes.

40. The Joint Petitioners do not believe that any waivers of the SC GIP are necessary to implement this portion of the Settlement Agreement, but have provided this summary for the Commission's benefit. As described above, and as specified in Section 1(j) of the Settlement Agreement, the Companies will not seek recovery of any such remaining construction costs from retail or wholesale customers.

41. The resolution of this issue will avoid the need for lengthy and protracted litigation regarding each FAR, which would necessarily involve the evaluation of 100+ different construction projects and the unique circumstances impacting each such project and resulting in the cost exceedances.

42. Once again, any eligible Interconnection Customer may join the Settlement Agreement and receive the same tiered cost capping benefits. If an Interconnection Customer chooses not to participate, it would be obligated to pay 100% of the amount due

under a FAR as set forth in their Interconnection Agreement (or to initiate a dispute under the SC GIP regarding such FAR).

43. At this point, the Companies anticipate that as much as 80% of eligible Interconnection Customers will elect to participate in this portion of the Settlement Agreement, and that percentage may increase after the filing of this Joint Notice and Petition.

**b. Overview of Sections 2-3 and 5 of the Settlement Agreement**

44. The Settlement Agreement also provides for increased certainty regarding future solar interconnection by establishing: (1) the Companies' and the Settling Developers' reciprocal commitments designed to achieve particular study and interconnection timelines for a subset of projects in the interconnection queue (*see* Section 3(a) and 3(b) of the Settlement Agreement); and (2) a process by which Settling Developers are permitted to select a subset of their transmission-constrained projects to move forward to interconnection under today's serial study process, subject to the curtailment rights discussed above in Para. 23 (*see* Section 2(b) of the Settlement Agreement). These provisions of the Settlement Agreement provide an efficient transition of pending distribution Interconnection Requests to the anticipated future "cluster study" framework.

45. The process by which Settling Developers identify their preferred projects for interconnection under the Settlement Agreement is complex,<sup>18</sup> but is structured to give discretion to the Settling Developers to determine their optimal projects for interconnection

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<sup>18</sup> At a high level, each Settling Developer is assigned a number of "Allocated MW" equal to 40% of the total nameplate capacity of projects in its pipeline that are interdependent, transmission-constrained, or otherwise unlikely to be interconnected in 2021 or 2022. The developer can select a number of projects up to its Allocated MW ("Allocated MW Projects") to be eligible for interconnection under the protocols discussed in Paragraphs 20-26 of the Petition.



under the serial process, while limiting the number of projects allowed to interconnect in transmission-constrained areas in order to continue to ensure safe and reliable operation of the transmission system until the necessary Upgrades are completed.

46. Section 5(a) of the Settlement Agreement outlines the technical issues related to those projects that will be allowed to interconnect in transmission-constrained areas. Section 5(b) of the Settlement Agreement describes a unique payment arrangement agreed to for projects that have been assigned direct transfer trip responsibilities. Section 5(c) of the Settlement Agreement describes an additional arrangement whereby the Companies have agreed to allow a certain number of projects to participate in a pilot program pursuant to which the Companies utilize smart inverter functions in order to resolve certain technical issues that would otherwise give rise to the need for additional Upgrades and/or a downsizing of the Generating Facility.

47. Once again, an eligible Interconnection Customer may join the Settlement Agreement and receive the same benefits described herein. If an Interconnection Customer chooses not to participate, its Interconnection Request would simply continue to be processed under the SC GIP in the ordinary course, subject to any changes to the SC GIP later approved by the Commission.

**c. Overview of Section 4 of the Settlement Agreement**

48. In light of the substantial construction cost exceedances (relative to actual costs) that have been experienced by distribution-connected Interconnection Customers that received IAs prior to July 2019, the Settling Developers requested, and the Companies have agreed to implement, additional forward-looking cost capping for certain other distribution-connected Interconnection Customers. As described above, the Companies

implemented a revised cost estimating methodology in July 2019. Under the Settlement Agreement, the Companies have agreed to cap the construction cost exceedances of any FAR received by distribution-connected Interconnection Customers with IAs delivered after July 2019. The cost caps applied to this subset of projects are lower (as a percentage of estimated costs) than the caps set forth in Section 1 of the Settlement Agreement, given the updated cost estimation methodology that was implemented in July 2019. As explained in Section 4 of the Settlement Agreement, such cost capping excludes cost increases arising from certain defined circumstances outside of the Companies' control.

49. Section 4(e) of the Settlement Agreement makes clear that any construction cost exceedance not paid by the Interconnection Customer under the Settlement Agreement will be borne by the Companies and not recovered from retail or wholesale customers.

***d. Overview of Section 6 of the Settlement Agreement***

50. Section 6 of the Settlement Agreement addresses a number of mechanical and administrative issues related to the Settlement Agreement. Importantly, Section 6(m) of the Settlement Agreement identifies the process by which any eligible Interconnection Customer is permitted to join the Settlement Agreement and receive all of the benefits that are available to similarly situated projects.

**V. Summary and Conclusion**

51. In conclusion, the Joint Petitioners request Commission approval of the limited waivers to the SC GIP described in Section III above. These limited waivers have been carefully constructed to ensure that non-participating Interconnection Customers are not adversely impacted and that no costs are shifted to non-settling Interconnection Customers. Moreover, the associated benefits of the Settlement Agreement remain open

to all similarly situated Interconnection Customers should such Interconnection Customers elect to join the Settlement Agreement.

52. In order to allow the Joint Petitioners to achieve their commitments set forth in the Settlement Agreement, the Joint Petitioners request expedited approval of the limited waivers described herein. Specifically, the Joint Petitioners respectfully request approval on or before October 15, 2020.

53. The Settlement Agreement is an important accomplishment that is reflective of a highly collaborative process between the Companies and the Settling Developers and a significant investment of time and effort by both sides. While interconnection issues are complex and have historically been contentious, the Settlement Agreement was crafted through the mutual, good-faith efforts of the respective parties to identify a more collaborative and constructive approach to issues that would otherwise have had the potential to result in extensive litigation and disputes. Timely approval of the requested waivers (which is also being requested from the North Carolina Utilities Commission) will facilitate the successful implementation of the Settlement Agreement, and ensure that all parties are able to gain the maximum benefit from the Settlement Agreement.

Respectfully submitted, this the 4th day of September 2020.



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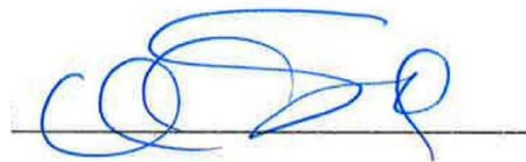
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ATTORNEY FOR DEPCOM POWER, INC.

**CERTIFICATION  
PURSUANT TO  
S. C. Code § 58-27-1720**

I, Kenneth J. Jennings, state and attest, under penalty of perjury, that I have reviewed the attached Joint Notice of Settlement and Petition, and, in the exercise of due diligence, have made reasonable inquiry into the accuracy of the information and representations provided therein; and that, to the best of my knowledge, information, and belief, all information contained therein is accurate and true and contains no false, fictitious, fraudulent or misleading statements; that no material information or fact has been knowingly omitted or misstated therein, and that all information contained therein has been prepared and presented in accordance with all applicable South Carolina general statutes, Commission rules and regulations, and applicable Commission Orders. Any violation of this Certification may result in the Commission initiating a formal review proceeding. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment by contempt.



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NAME: Kenneth J. Jennings  
TITLE: General Manager, Distributed  
Energy Technologies Renewable  
Integration and Operations, Duke Energy  
Carolinas, LLC and Duke Energy  
Progress, LLC